



Board of Governors Rule

Faculty
Reduction in Force
Responsible Unit: Office of the Provost
Amended: May 1, 2020
Effective: May 22, 2020
Revision History: Prior BOG Policy 2
(Originally effective February 8, 2002),
Rewritten as BOG Rule 4.7 on May 22,
2018 (effective June 11, 2018)
Review Date: April 2021

BOG FACULTY RULE 4.7 REDUCTION IN FORCE

SECTION 1: PURPOSE & SCOPE.

- 1.1. Recognizing the conditions may arise that necessitate the elimination of Faculty Positions, this Rule outlines the guiding principles for and is applicable to Faculty Reductions in Force.
- 1.2. This Rule applies to tenured, tenure-track, teaching-track, or service-track Faculty at West Virginia University, including West Virginia University Institute of Technology and Potomac State College of West Virginia University.

SECTION 2: REDUCTIONS IN FORCE PROCESS AND REVIEW COMMITTEE.

- 2.1 A Faculty RIF may occur in response to institutional reorganization as a result of a Program Reduction or Program Discontinuation, and/or a Financial Exigency.
- 2.2 Prior to undertaking a Faculty RIF, the Dean shall notify the Provost and, in consultation with appropriate Faculty Members, develop a proposed RIF Plan in the form and substance required by the Provost. At a minimum, the RIF Plan shall:
 - 2.2.1 Identify the reasons for implementing the RIF;
 - 2.2.2 Describe any re-organization of the Unit or other changes that will occur as a result of the RIF;
 - 2.2.3 List reasonable alternative solutions (e.g., where applicable, reductions of operating expenses other than payroll, moratorium on further hiring, or voluntary separation) to a RIF that were considered;

- 2.2.4 Identify the positions recommended for elimination and the reasons for the elimination;
 - 2.2.5 Describe the impact of the RIF Plan to other employees, including whether other positions will also be eliminated;
 - 2.2.6 Describe academic impact on students who may be affected and plans for providing them with completion of their program;
 - 2.2.7 Describe the extent to which faculty were involved in developing the proposal; and
 - 2.2.8 Any other matters required by the Provost.
- 2.3 The President of the University shall establish and appoint a Review Committee to consider and approve any plan proposed by the Provost to implement a Faculty RIF. The members of the Review Committee should include, but are not limited to, representatives from the Provost's Office, Strategic Initiatives, and Talent and Culture, with advice from the Office of General Counsel.
- 2.4 A Faculty RIF is not intended to be a performance management tool.
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SECTION 3: TERMINATION BECAUSE OF REDUCTION IN FORCE.

- 3.1 A RIF may result in a tenured, tenure-track, teaching-track, or service-track Faculty Member's appointment being terminated.
- 3.1.1 If another program or Faculty position requiring equivalent competency exists, the University shall make every reasonable effort to reassign the Faculty Member.
 - 3.1.2 Reasonable effort should be made by the Provost to reassign the Faculty Member to instructional or non-instructional duties commensurate with the Faculty Member's training and experience, and offers of release time or leaves of absence should be made to enable such persons to acquire capabilities. Faculty development programs and funds should be used to facilitate such reassignments.
 - 3.1.3 If, within one year following the Faculty RIF, a Faculty position on the same campus becomes vacant for which the Faculty Member is qualified,

the University shall make every reasonable effort to extend an offer of first refusal to the Faculty Member so terminated.

- 3.2. In situations where a RIF results in the elimination of some, but not all of the Faculty positions within the Unit, the Provost shall evaluate the skills and qualifications of the individual Faculty Members potentially subject to the Faculty RIF. The Provost shall assist in the review process, evaluate performance criteria, and provide seniority validations. In these situations, the Provost shall give consideration to the following:
 - 3.2.1 *Performance*: each Faculty Member's documented performance as demonstrated in performance evaluations of record including, but not limited to, annual performance evaluations and disciplinary history;
 - 3.2.2 *Knowledge and qualifications*: specific duties and responsibilities of each position, and the Faculty Members' knowledge and skills; and
 - 3.2.3 *Seniority*: the length of service in a full-time (1.0 FTE) faculty position.
- 3.3 The Provost shall initiate Faculty RIF action by giving each Faculty Member whose position is terminated written notice of termination by certified mail with return receipt requested, first class mail, and electronic mail, which notice shall contain:
 - 3.3.1 A delineation of the rationale used for the determination of a RIF.
 - 3.3.2 A copy of the implementation procedures used by the University related to the RIF.
 - 3.3.3 A description of the grievance process available to the Faculty Member as noted in section 4.3 below.
- 3.4 ***Financial Exigency, Generally.***
 - 3.4.1 University plans for responding to a Financial Exigency shall be developed through a collaborative process initiated by the President, in consultation with the Provost and other appropriate members of the University community, including representatives of administration and faculty.
 - 3.4.2 Plans for responding to a Financial Exigency shall be approved by the Board prior to implementation.

- 3.5 ***Commitment to Equal Opportunity and Affirmative Action.*** All decisions under this Rule shall be made without regard to race, color, national origin, religion, sex, age, sexual orientation, disability, or any other class protected under the University's non-discrimination policy (BOG Governance Rule 1.6 - Rule Regarding Discrimination, Harassment, Sexual Harassment, Sexual Misconduct, Domestic Misconduct, Stalking, Retaliation, and Relationships), unless otherwise prohibited by applicable law. The Provost, in consultation with the Vice President for Talent and Culture, shall undertake an adverse impact analysis to determine that all RIF Plans under this Rule comply with this Section.
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SECTION 4: RIGHTS OF FACULTY.

- 4.1 The University shall provide a Faculty Member at least 60 days written notice ("Notice Period") that his or her position is going to be eliminated, unless the financial circumstances of the University are so severe that they dictate a shorter notice period, as determined by the Provost and the Review Committee.
- 4.2 During the Notice Period, the Unit shall provide any Faculty Member subject to a job elimination reasonable time away from assigned duties to secure employment at another institution, subject to the operational needs of the Unit.
- 4.3 In accordance with W. Va. Code §6C-2-1, et seq., eligible employees must utilize the West Virginia Public Employees Grievance Procedure to seek resolution for their grievable issues involving a RIF.
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SECTION 5: SEVERANCE AGREEMENT.

- 5.1 The University may offer a severance package to a Faculty Member who is impacted by a RIF, if financially feasible. If the University offers a severance package, the University shall provide the employee forty-five days from the date of receipt to consider the terms and conditions of the agreement and to accept the severance package. Additionally, after an employee executes a severance agreement, that employee maintains the right to revoke that execution and void the severance agreement for seven days after execution. No severance benefits shall be paid to any employee that revokes execution of the severance agreement.
- 5.2 Generally, the value of the severance package should be equivalent to one year of the Faculty Member's annual base pay. Any severance shall be paid in installments. The University may also subsidize health insurance for a predetermined period of time as determined the Review Committee. Any

- severance payments shall be discontinued if the individual is rehired by the University or an Affiliate prior to the end of the severance payments.
- 5.3 Any severance agreement shall contain a statement indicating that the Faculty Member releases all claims against the University, including any claims that the employee could grieve pursuant to W. Va. Code § 6C-2-1, et seq. and a statement of the employee's rights to benefits post-employment. Any severance agreement will not be effective, and severance pay shall not be paid, unless the employees agrees to the terms of and executes the severance agreement during the 45-day period.
- 5.4 Nothing in this section shall prohibit a Unit from moving forward with a RIF if a Faculty Member chooses not to execute a severance agreement.
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SECTION 6: DEFINITIONS.

- 6.1 "Academic Program" is defined in BOG Academics Rule 2.2 – Program Creation and Review.
- 6.2 "Faculty" and "Faculty Member" are defined in BOG Faculty Rule 2.2 – Appointment, Promotion, Tenure, and Dismissal for Cause.
- 6.3 "Faculty Reduction in Force" or "Faculty RIF" or "RIF," for purposes of this Rule, means a separation from employment due to Financial Exigency, Program Reduction, or Program Discontinuation, with no likelihood or expectation that the Faculty Member will be recalled because the position itself is eliminated.
- 6.4 "Financial Exigency" means a situation that curtails operations requiring immediate steps by the University to remedy, which may include, but is not limited to, budget reductions, loss of funding, or an emergency.
- 6.5 "President" means the President of West Virginia University or the President's designee.
- 6.6 "Provost" means the Provost of West Virginia University or the Provost's designee.
- 6.7 "Program Discontinuation" means the discontinuation of an Academic Program in accordance with a program review performed pursuant to BOG Academic Rule 2.2 – Program Creation and Review.

- 6.8 “Program Reduction” means the Academic Program continues to exist, but at a reduced level of activity (e.g., reducing the range of optional tracks or majors) in accordance with the outcome of a program review performed pursuant to BOG Academic Rule 2.2 – Program Creation and Review.
- 6.9 “RIF Plan” means the plan developed by the Dean pursuant to Section 2.2 of this Rule, in the form and substance required by the Provost.
- 6.10 “Vice President for Talent and Culture” means the Vice President for Talent and Culture of West Virginia University or the Vice President’s designee.
- 6.11 “Unit” means any college, school, or other academic department, or combination thereof.
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SECTION 7: DELEGATION.

- 7.1 The Board of Governors delegates to the President the authority to adopt additional academic affairs internal policies and procedures to effectuate the implementation of this Board of Governors Rule or in furtherance of any other authority that the Board of Governors has specifically delegated to the President pursuant to this Rule. Any actions taken pursuant to this delegation must be consistent with the guidelines provided by this Rule.
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SECTION 8: AUTHORITY.

- 8.1 W. Va. Code § 18B-1-6, § 18B-2A-4, and § 18B-8-7.
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SECTION 9: SUPERSEDING PROVISIONS.

- 9.1 This Rule supersedes and replaces Higher Education Policy Commission Series 9 – Academic Freedom, Professional Responsibility, Promotion and Tenure, and any other Rule of the Higher Education Policy Commission which relates to the subject matter contained within this Rule. This Rule also repeals and supersedes WVU BOG Policy 2 – Academic Freedom, Professional Responsibility, Promotion, and Tenure, which was adopted February 8, 2002, and amended on June 6, 2003 and February 15, 2008, and any other internal academic affairs policy or procedure which relates to the subject matter contained within this Rule.